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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/696,223	10/29/2003	Chad Boyd	SHM.P.US0046DIV	5245
26360	7590	08/12/2005	EXAMINER	
RENNER, KENNER, GREIVE, BOBAK, TAYLOR & WEBER FIRST NATIONAL TOWER FOURTH FLOOR 106 S. MAIN STREET AKRON, OH 44308			TENTONI, LEO B	
			ART UNIT	PAPER NUMBER
			1732	

DATE MAILED: 08/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/696,223

Applicant(s)

BOYD ET AL.

Examiner

Leo B. Tentoni

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 October 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>01122004</u> . | 6) <input type="checkbox"/> Other: _____ |

5.00

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DETAILED ACTION

1. The Art Unit location of your application in the USPTO has changed. To aid in correlating any papers for this application, all further correspondence regarding this application should be directed to Art Unit 1732, Examiner Leo Tentoni.

Specification

2. The disclosure is objected to because of the following informalities: On page 1, the status of the parent application should be updated.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Keuchel et al (U.S. Patent 3,861,843 A).

Keuchel et al (see the entire document, in particular, col. 2, lines 16-27; col. 2, line 52 to col. 4, line 49) teach a

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process of making a multi-structural filament from a single ingredient (polymer) including providing different shear conditions for one of the flow paths. The aspects of two or more extruders and the volume percent are inherent in Keuchel et al principally because Keuchel et al teach the use of conventional screw extruders or equivalent means and the same filament structure (i.e., multi-structural) as recited in the instant claims.

5. Claims 1-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Tsai et al (U.S. Patent 5,698,322 A).

Tsai et al (see the entire document, in particular, col. 2, line 56 to col. 3, line 13; col. 8, lines 21-44) teach a process of making a multi-structural filament from a single ingredient (polymer) including providing different shear conditions for one of the flow paths. The aspect of volume percent is inherent in Tsai et al principally because Tsai et al teach the same filament structure (i.e., multi-structural) as recited in the instant claims.

6. Claims 1-10 are rejected under 35 U.S.C. 102(e) as being anticipated by Skinner et al (either U.S. Patent 6,560,878 B2 ('878) or U.S. Patent Application Publication 2002/0023356 A1 ('356)).

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The applied reference has a common inventor with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

Skinner et al ('878) (see the entire document, in particular, the abstract; col. 4, lines 1-23) and Skinner et al ('356) (see the entire document, in particular, the abstract; paragraphs [0033] and [0034]) teach a process of making a multi-structural filament from a single ingredient (polymer) including providing different shear conditions for one of the flow paths. The aspect of volume percent is inherent in Skinner et al ('878) or ('356) principally because Skinner et al ('878) and ('356) teach the same filament structure (i.e., multi-structural) as recited in the instant claims.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary.

Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

9. Claims 1-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Keuchel et al (U.S. Patent 3,861,843 A).

Keuchel et al (see the entire document, in particular, col. 2, lines 16-27; col. 2, line 52 to col. 4, line 49) teach a process of making a multi-structural filament from a single ingredient (polymer) including providing different shear conditions for one of the flow paths, except that Keuchel do not explicitly teach the aspects of two or more extruders of volume

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percent, which would have been obvious to one of ordinary skill in the art at the time the invention was made in the process of Keuchel et al principally because Keuchel et al teach the use of conventional screw extruders or equivalent means and the same filament structure (i.e., multi-structural) as recited in the instant claims.

10. Claims 1-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tsai et al (U.S. Patent 5,698,322 A).

Tsai et al (see the entire document, in particular, col. 2, line 56 to col. 3, line 13; col. 8, lines 21-44) teach a process of making a multi-structural filament from a single ingredient (polymer) including providing different shear conditions for one of the flow paths, except that Tsai et al do not explicitly teach the aspect of volume percent, which would have been obvious to one of ordinary skill in the art at the time the invention was made in the process of Tsai et al principally because Tsai et al teach the same filament structure (i.e., multi-structural) as recited in the instant claims.

11. Claims 1-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Skinner et al (either U.S. Patent 6,560,878 B2 ('878) or U.S. Patent Application Publication 2002/0023356 ('356)).

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Skinner et al ('878) (see the entire document, in particular, the abstract; col. 4, lines 1-23) and Skinner et al ('356) (see the entire document, in particular, the abstract; paragraphs [0033] and [0034]) teach a process of making a multi-structural filament from a single ingredient (polymer) including providing different shear conditions for one of the flow paths, except that Skinner et al ('878) and Skinner et al ('356) do not explicitly teach the aspect of volume percent, which would have been obvious to one of ordinary skill in the art at the time the invention was made in the process of Skinner et al ('878) or Skinner et al ('356) principally because Skinner et al ('878) and Skinner et al ('356) teach the same filament structure (i.e., multi-structural) as recited in the instant claims.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Leo B. Tentoni whose telephone number is (571) 272-1209. The examiner can normally be reached on Monday - Friday (6:30 A.M. - 3:00 P.M.).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael P. Colaianni can be reached on (571) 272-1196. The fax phone number for the

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organization where this application or proceeding is assigned is
703-872-9306.

Information regarding the status of an application may be
obtained from the Patent Application Information Retrieval
(PAIR) system. Status information for published applications
may be obtained from either Private PAIR or Public PAIR. Status
information for unpublished applications is available through
Private PAIR only. For more information about the PAIR system,
see <http://pair-direct.uspto.gov>. Should you have questions on
access to the Private PAIR system, contact the Electronic
Business Center (EBC) at 866-217-9197 (toll-free).



Leo B. Tentoni
Primary Examiner
Art Unit 1732

lbt